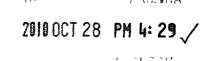
Office of the Yavapai County Attorney 255 E. Gurlev Street, Suite 300

JEFFREY G. PAUPORE, SBN 007769 Deputy County Attorney Attorneys for STATE OF ARIZONA YCAO@co.yavapai.az.us



IN THE SUPERIOR COURT OF THE STATE OF ARIZUN Rios

# IN AND FOR THE COUNTY OF YAVAPAI

STATE OF ARIZONA,

CAUSE NO. CR V1300CR201080461

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(928)

RESPONSE TO MOTION TO EXTEND RULE 12.9 TIME

vs.

Superior Court Division 6

# STEVEN CARROL DEMOCKER,

Defendant.

Plaintiff,

THE STATE OF ARIZONA, by and through Sheila Polk, Yavapai County

Attorney and her deputy undersigned, respectfully request the Court deny defendant's motion for an extension of time to file a Rule 12.9 motion.

# MEMORANDUM OF POINTS AND AUTHORITIES

### **FACTS:**

Defendant was indicted by a Yavapai County Grand Jury on September 29, 2010.

Defendant's EDC arraignment was on September 30, 2010. The grand jury transcript was certified on October 5, 2010. The State made full disclosure on October 6, 2010. Defendant's attorney announced on October 27, 2010, that due to a conflict of interest he must withdraw from this case.

Arizona Rules of Criminal Procedure, Rule 12.9(a) permits a motion for a new finding of probable cause on the grounds he was denied a substantial procedural right. A motion under Rule 12.9(a) may only be filed after an indictment is returned and no later than 25 days after the

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certified transcript and minutes of the grand jury proceedings have been filed or 25 days after the arraignment is held, whichever is later.

The defendant sets forth no explaining on what efforts, if any were taken since the date the transcript was certified to the date of withdrawal (22 days) justifying an extension of additional 30 days to challenge the grand jury proceedings. The defendant has failed to provide any showing of good cause as to why he should be granted an extension to the-25 day limit imposed by Rule 12.9, *Ariz. R. Crim. P.* 

This is not a complex case and the defendant has had all the information necessary since his receipt of the grand jury transcript on October 5, 2010 to challenge the grand jury proceedings.

# **CONCLUSION**

Without the requisite showing of good cause, the State respectfully requests this Court deny the defendant's motion for an extension of time to challenge the grand jury proceedings.

Defendant has failed to state "the specific factual grounds...indicating the precise legal points, statutes, and authorities relied upon" to support his motion as required under Rule 35.1(a), Ariz. R. Crim. P. Therefore, the State requests this Court deny defendant's motion.

**RESPECTFULLY SUBMITTED,** this 28th day of October, 2010.

Sheila Sullivan Polk YAVAPAI COUNTY ATTORNEY

By:\_\_\_\_\_\_

ENTREY G PAUPORI

Office of the Yavapai County Attorney 255 E. Gurley Street, Suite 300 Prescott, AZ 86301 **COPY** of the foregoing mailed this 28th day of October, 2010, to:

Facsimile: (928) 771-3110

Phone: (928) 771-3344

**Craig Williams**Attorney for Defendant

By: Trebe the Holy